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Attorneys for Plaintiff

UNITED STATES DISTRICT COURT

CENTRAL DISTRICT OF CALIFORNIA

WOODWARD ENTERPRISES, LLC, a Tennessee Limited Liability Company; Plaintiff, v. WILLIAMS-SONOMA, INC., individually, and doing business as “POTTERY BARN,” a California Corporation; DOES 1 through 10, Defendants.	Case No.: PLAINTIFF’S COMPLAINT FOR: 1. COPYRIGHT INFRINGEMENT; 2. VICARIOUS AND/OR CONTRIBUTORY COPYRIGHT INFRINGEMENT 3. VIOLATION OF 17 U.S.C. § 1202 Jury Trial Demanded

WOODWARD ENTERPRISES, LLC (“WOODWARD”), by and through its undersigned attorneys, hereby prays to this honorable Court for relief based on the following:

JURISDICTION AND VENUE

1. This action arises under the Copyright Act of 1976, Title 17 U.S.C., §§ 101 *et seq.*

2. This Court has federal question jurisdiction under 28 U.S.C. §§ 1331 and 1338 (a) and (b).

3. Venue in this judicial district is proper under 28 U.S.C. §§ 1391(c) and 1400(a) in that this is the judicial district in which a substantial part of the acts and omissions giving rise to the claims occurred.

PARTIES

4. Plaintiff WOODWARD ENTERPRISES, LLC ("WOODWARD") is a limited liability company based in Tennessee.

5. Plaintiff is informed and believes and thereon alleges that Defendant WILLIAMS-SONOMA, INC., individually and doing business as "POTTERY BARN" (collectively "POTTERY BARN") is a California corporation doing business in California and this District.

6. Plaintiff is informed and believes and thereon alleges that some of Defendants Does 1 through 3, inclusive, are manufacturers and/or vendors of product, which Doe Defendants have manufactured and/or supplied and are manufacturing and/or supplying product comprised of product printed with Plaintiff's copyrighted artwork (as hereinafter defined) without Plaintiff's knowledge or consent or have contributed to said infringement. The true names, whether corporate, individual or otherwise of Defendants Does 1-3, inclusive, are presently unknown to Plaintiff, which therefore sues said Defendants by such fictitious names and will seek leave to amend this complaint to show their true names and capacities when same have been ascertained.

7. Defendants Does 4 through 10, inclusive, are other parties not yet identified who have infringed Plaintiff's copyrights, have contributed to the infringement of

Plaintiff's copyrights, or have engaged in one or more of the wrongful practices alleged herein. The true names, whether corporate, individual or otherwise, of Defendants 4 through 10, inclusive, are presently unknown to Plaintiff, which therefore sues said Defendants by such fictitious names, and will seek leave to amend this Complaint to show their true names and capacities when same have been ascertained.

8. Plaintiff is informed and believes and thereon alleges that at all times relevant hereto each of the Defendants was the agent, affiliate, officer, director, manager, principal, alter-ego, and/or employee of the remaining Defendants and was at all times acting within the scope of such agency, affiliation, alter-ego relationship and/or employment; and actively participated in or subsequently ratified and adopted, or both, each and all of the acts or conduct alleged, with full knowledge of all the facts and circumstances, including, but not limited to, full knowledge of each and every violation of Plaintiff's rights and the damages to Plaintiff proximately caused thereby.

CLAIMS RELATED TO ARTWORK BLUE-51 and PHOTOGRAPH OF BLUE-51

9. Plaintiff's designer, Karin Woodward, is a prominent designer who has been honored as one of 2015's Top Floral Designers by no less an authority than Martha Stewart Magazine, and has had her work featured in Flower Magazine, Martha Stewart Weddings Online, Sweet Violet Magazine, Southern Weddings Magazine, Huffington Post Weddings, Magnolia Rouge Magazine, Wedding Flowers UK Magazine, Weddings UK Magazine, Grace Ormonde Wedding Style Online, Style Me Pretty Weddings, Wedding Chicks, and others.

10. Prior to the conduct complained of herein, Plaintiff created an original work of art titled "Blue-51." Said artwork is owned exclusively by Plaintiff. Also

before the conduct complained of herein, a photograph was created depicting Blue-51. This photograph is also owned exclusively by Plaintiff.

11. Blue-51 and the photograph of Blue-51 will be referred to as the "Subject Artwork." It is depicted below:

SUBJECT ARTWORK:

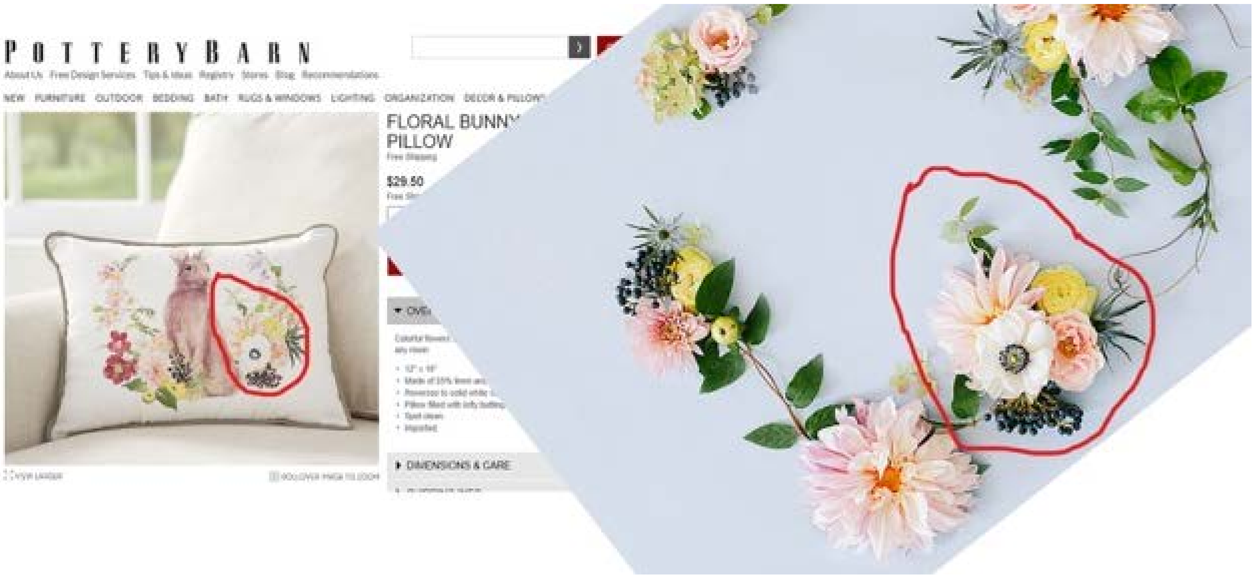
12. Plaintiff has applied to the United States Copyright Registration to register the Subject Artwork.

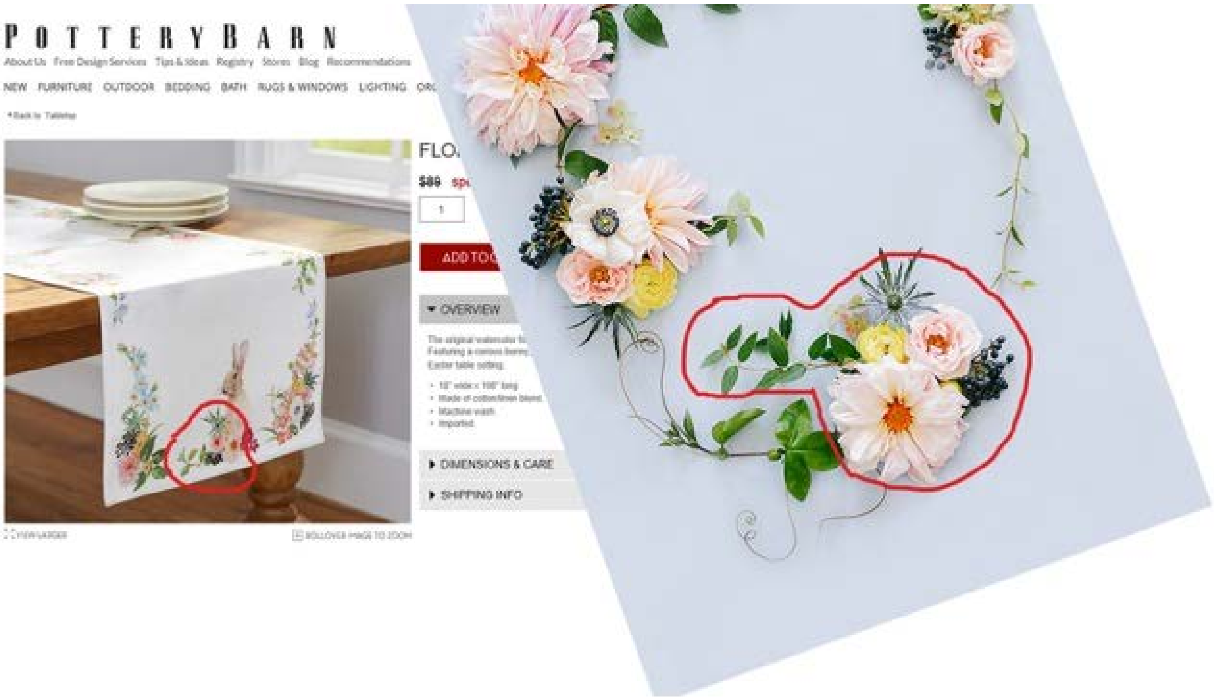
13. Before the acts complained of herein, Plaintiff published the Subject Artwork in an international publication and online.

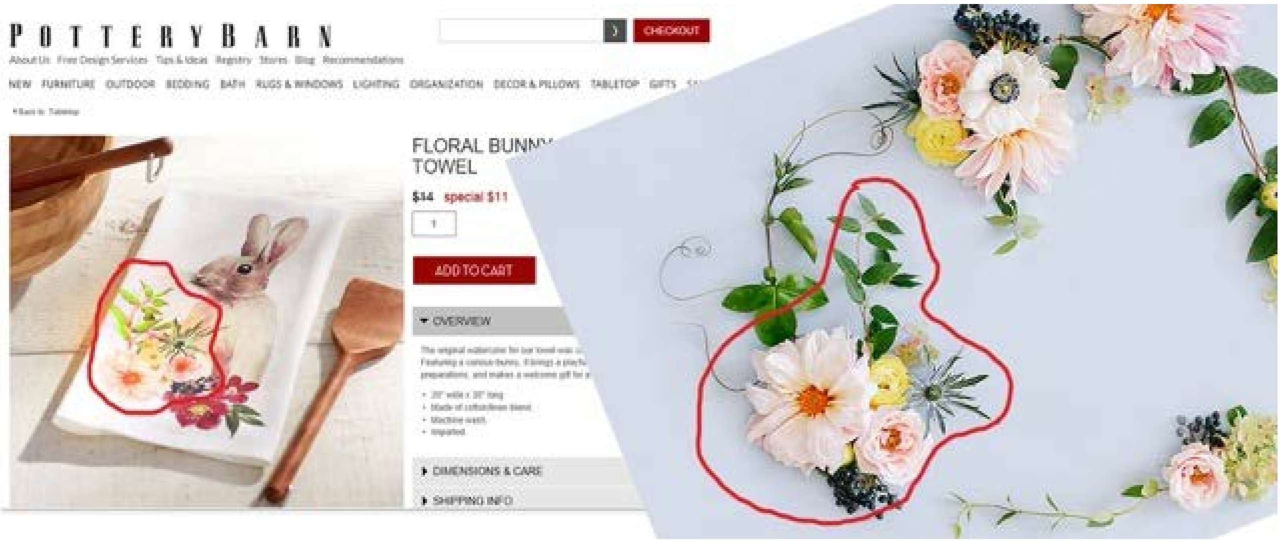
14. Following this publication, Plaintiff's investigation revealed that POTTERY BARN had misappropriated the Subject Artwork, and was selling product bearing illegal reproductions and/or derivations of the Subject Artwork.

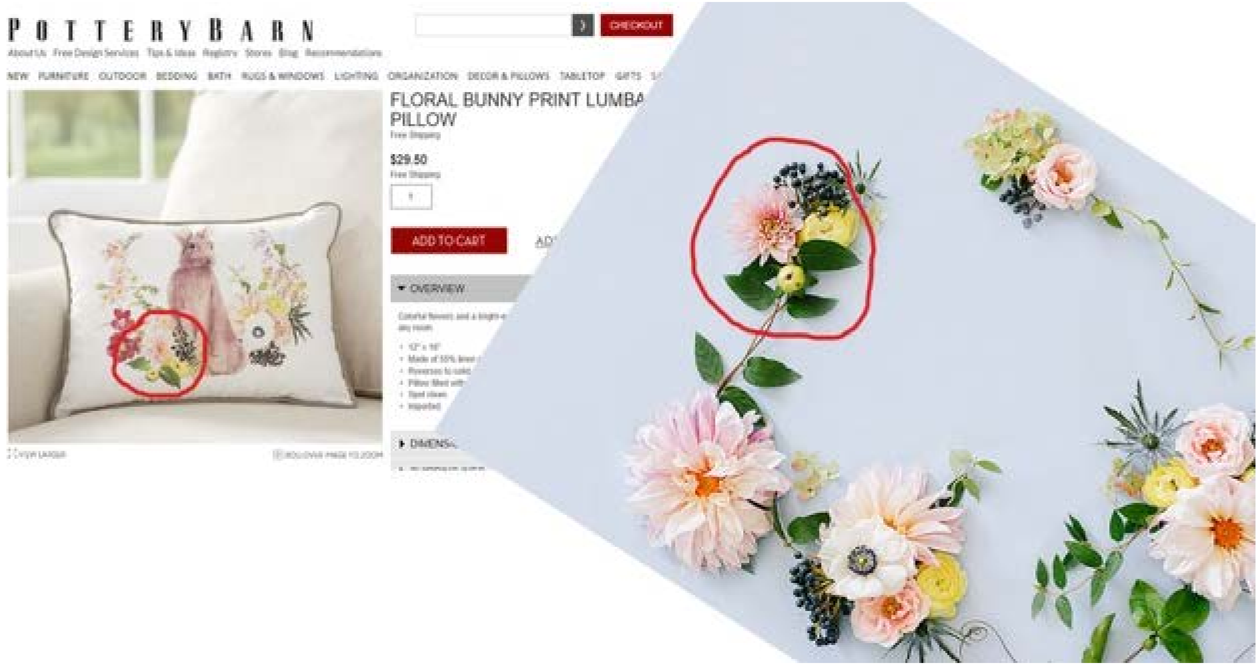
15. Plaintiff is informed and believes and thereon alleges that, without Plaintiff's authorization, POTTERY BARN, and certain Doe defendants, created, sold, manufactured, caused to be manufactured, imported and/or distributed product featuring art that is identical to or substantially similar to the Subject Artwork ("Infringing Product"). Below are comparisons of the Subject Artwork and exemplars of the Infringing Product. Also below is a review of the selection and arrangement of the motifs, and the motifs themselves, reveals the copying, as shown in these representative comparison:

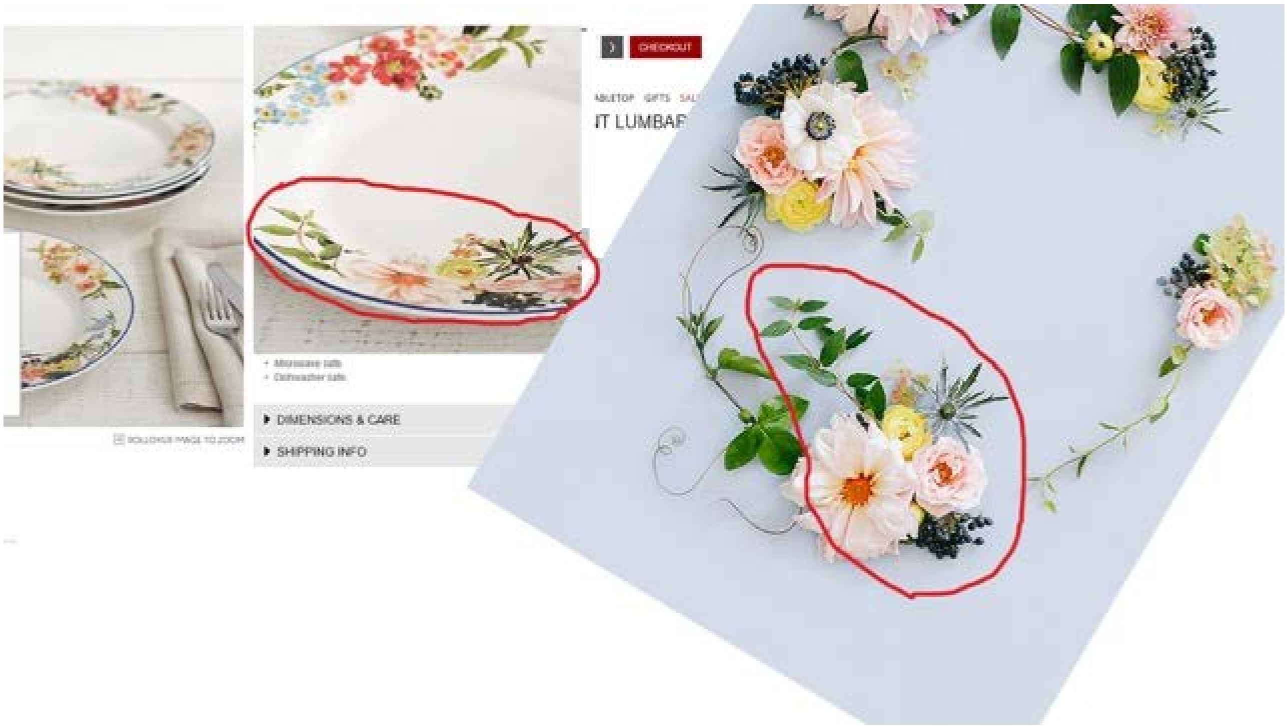
Infringing Product (left) and Subject Artwork (right):

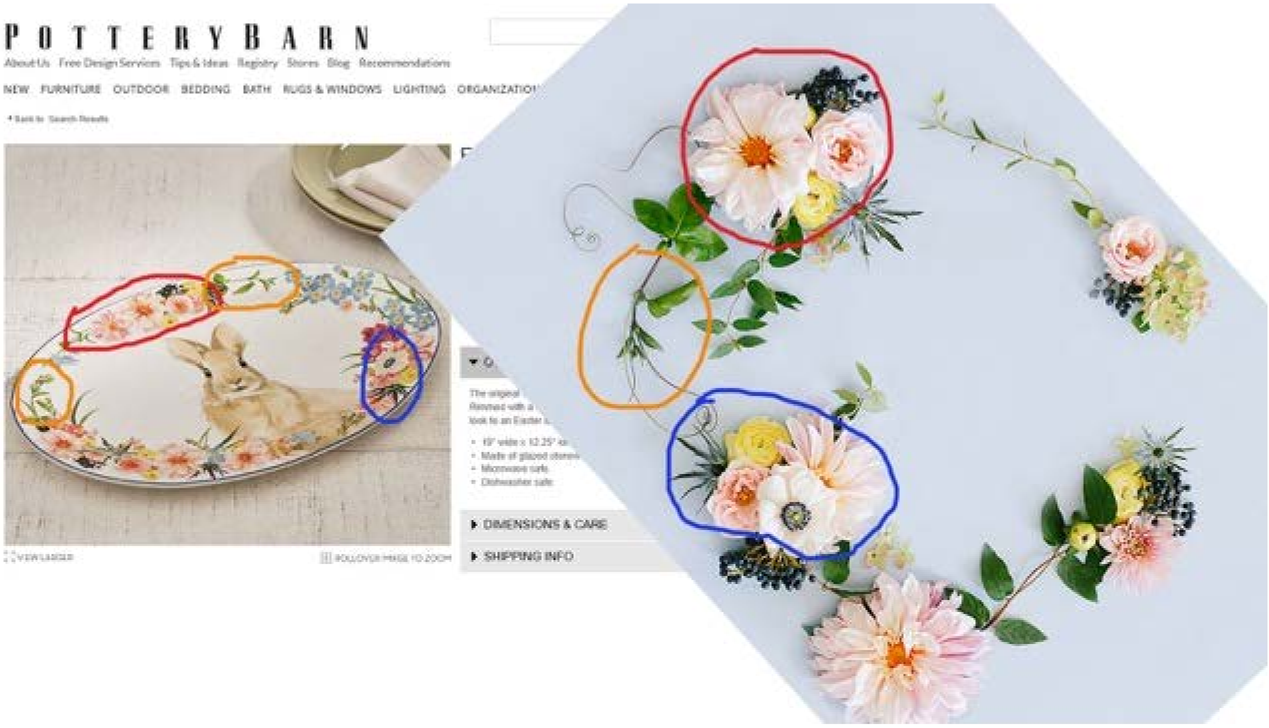



POTTERY BARN
About Us Free Design Services Tips & Ideas Registry Stores Blog Recommendations
NEW FURNITURE OUTDOOR BEDDING BATH RUGS & WINDOWS LIGHTING
OVERVIEW
DIMENSIONS & CARE
SHIPPING INFO


POTTERY BARN
CHECKOUT
About Us Free Design Services Tips & Ideas Registry Stores Blog Recommendations
NEW FURNITURE OUTDOOR BEDDING BATH RUGS & WINDOWS LIGHTING ORGANIZATION DECOR & PILLOWS TABLETOP GIFTS
TOWEL
$14 special $11
ADD TO CART
OVERVIEW
DIMENSIONS & CARE
SHIPPING INFO


POTTERY BARN
CHECKOUT
FLORAL BUNNY PRINT LUMBA
PILLOW
$29.50
ADD TO CART
OVERVIEW


CHECKOUT
IT LUMBAR
DIMENSIONS & CARE
SHIPPING INFO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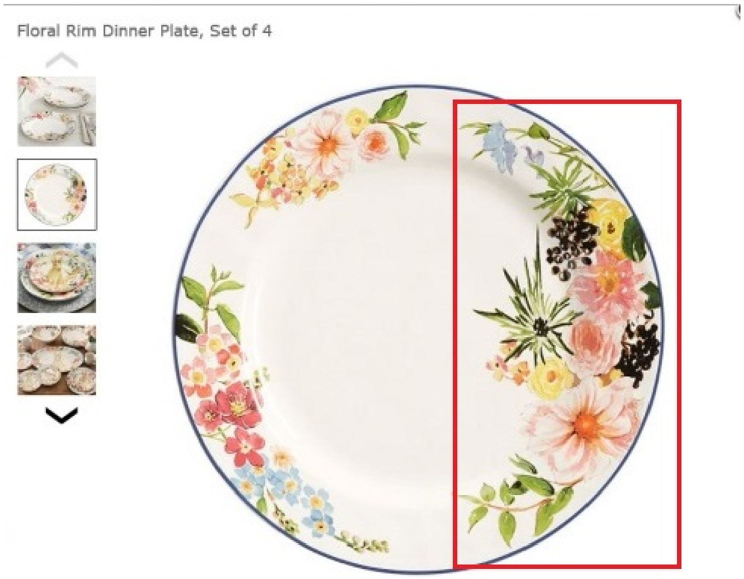

16. The above comparisons make apparent that the elements, composition, colors, arrangement, layout, and appearance of the artworks at issue are at least substantially similar.

17. The above product exemplars are for reference purposes only, and are not meant to be inclusive of all product sold by Defendants, and each of them, that bear infringing copies of the Subject Artwork. The claims made herein are made as to each and every product distributed and/or sold by Defendants, and each of them, that incorporate, in whole or in part, any protectable elements of the Subject Artwork.

FIRST CLAIM FOR RELIEF

(For Copyright Infringement – Against All Defendants, and Each)

18. Plaintiff repeats, realleges, and incorporates herein by reference as though fully set forth, the allegations contained in the preceding paragraphs of this Complaint.

19. Plaintiff is informed and believes and thereon alleges that Defendants, and each of them, had access to the Subject Artwork, including, without limitation, through (a) access to publications incorporating the Subject Artwork; (b) access to online sites that have published the Subject Artwork; (c) access to online databases or search engines that include or directed the searching party to the Subject Artwork; and (d) an intermediary that accessed the Subject Artwork. In addition, the near-verbatim nature of the copying is evidence that the work was accessed by Defendants.

20. Plaintiff is informed and believes and thereon alleges that Defendants, and each of them, infringed Plaintiff's copyrights by creating, making, and/or developing directly infringing and/or derivative works from the Subject Artwork and by producing, distributing and/or selling products that infringe the Subject Artwork through a nationwide network of retail stores, catalogues, and through on-line marketplaces such as websites.

21. Due to Defendants' acts of infringement, Plaintiff has suffered substantial damages to its business in an amount to be established at trial.

22. Due to Defendants' acts of infringement, Plaintiff has suffered general and special damages in an amount to be established at trial.

23. Due to Defendants' acts of copyright infringement as alleged herein, Defendants, and each of them, have obtained direct and indirect profits they would not otherwise have realized but for their infringement of the Subject Artwork. As such, Plaintiff is entitled to disgorgement of Defendant's profits directly and indirectly attributable to Defendant's infringement of the Subject Artwork in an amount to be established at trial.

24. Plaintiff is informed and believes and thereon alleges that Defendants, and each of them, have committed acts of copyright infringement, as alleged above, which were willful, intentional and malicious, which further subjects Defendants, and each of them, to liability for statutory damages and/or precludes them from offering certain defenses.

SECOND CLAIM FOR RELIEF

(For Vicarious and/or Contributory Copyright Infringement - Against All Defendants)

25. Plaintiff repeats, realleges, and incorporates herein by reference as though fully set forth, the allegations contained in the preceding paragraphs of this Complaint.

26. Plaintiff is informed and believes and thereon alleges that Defendants knowingly induced, participated in, aided and abetted in and profited from the illegal reproduction and/or subsequent sales of product featuring the Subject Artwork as alleged herein.

27. Plaintiff is informed and believes and thereon alleges that Defendants, and each of them, are vicariously liable for the infringement alleged herein because they had the right and ability to supervise the infringing conduct – the copying of Plaintiff's artwork – and because they had a direct financial interest in the sales of the Infringing Product.

28. By reason of the Defendants', and each of their, acts of contributory and vicarious infringement as alleged above, Plaintiff has suffered and will continue to suffer substantial damages to its business in an amount to be established at trial, as well as additional general and special damages in an amount to be established at trial.

29. Due to Defendants', and each of their acts of copyright infringement as alleged herein, Defendants, and each of them, have obtained direct and indirect

profits they would not otherwise have realized but for their infringement of Plaintiff's rights in the Subject Artwork. As such, Plaintiff is entitled to disgorgement of Defendants' profits directly and indirectly attributable to Defendants' infringement of the Subject Artwork, in an amount to be established at trial.

30. Plaintiff is informed and believes and thereon alleges that Defendants, and each of them, have committed acts of copyright infringement, as alleged above, which were willful, intentional and malicious, which further subjects Defendants, and each of them, to liability for statutory damages and/or precludes them from offering certain defenses.

THIRD CLAIM FOR RELIEF

(For Violations of the Digital Millennium Copyright Act (17 U.S.C. §1202 – Against all Defendants, and Each)

31. Plaintiff incorporates by reference the above paragraphs.

32. Plaintiff repeats, re-alleges, and incorporates herein by reference as though fully set forth, the allegations contained in the preceding paragraphs of this Complaint.

33. Plaintiff is informed and believes and thereon alleges that Defendants, and each of them, violated 17 U.S.C. §1202 by intentionally removing and/or altering the copyright management information from the Subject Artwork (the "Mislabeled Copy"), and/or distributing copyright management information for the Mislabeled Copy with knowledge that the copyright management information had been removed or altered without authority of the copyright owner or the law, and distributing and publicly displaying the Mislabeled Copy, knowing that copyright management information had been removed or altered without authority of the copyright owner or the law, and knowing, or, with respect to civil remedies under section 1203, having

reasonable grounds to know, that the conduct would induce, enable, facilitate, or conceal an infringement of any right under this title.

34. Plaintiff is informed and believes and thereon alleges that Defendants, and each of them, knowingly removed and altered the copyright management information on the Mislabeled Copy, and knowingly distributed the Mislabeled Copy with false copyright management information.

35. The above conduct is in violation of the Digital Millennium Copyright Act and exposes Defendants, and each of them, to additional and enhanced common law and statutory damages and penalties pursuant to 17 USC § 1203 and other applicable law.

36. Plaintiff is informed and believes and thereon alleges that Defendants, and each of their, conduct as alleged herein was willful, reckless, and/or with knowledge, and Plaintiff resultantly seeks enhanced damage and penalties.

PRAYER FOR RELIEF

Wherefore, Plaintiff prays for judgment as follows:

Against All Defendants

With Respect to Each Claim for Relief

a. That Defendants, their agents and employees be enjoined from infringing Plaintiff's copyrights in any manner, specifically those for the Subject Artwork;

b. That Plaintiff be awarded all profits of Defendants plus all losses of Plaintiff, plus any other monetary advantage gained by the Defendants through their infringement, the exact sum to be proven at the time of trial, or, if elected before final judgment, statutory damages as available under the Copyright Act, 17 U.S.C. §§ 101, *et seq.*;

c. That Plaintiff be awarded its attorneys' fees as available under the Copyright Act U.S.C. §§ 101, *et seq.*;

d. That Defendants, and each of them, account to Plaintiff for their profits and any damages sustained by Plaintiff arising from the foregoing acts of infringement;

e. That Plaintiff be awarded costs, attorneys' fees, statutory damages, and penalties as set forth in 17 U.S.C. §1203.

f. That Plaintiff be awarded pre-judgment interest as allowed by law;

g. That Plaintiff be awarded the costs of this action; and

h. That Plaintiff be awarded such further legal and equitable relief as the Court deems proper.

PLAINTIFF DEMANDS A JURY TRIAL ON ALL ISSUES SO TRIABLE PURSUANT TO FED. R. CIV. P. 38 AND THE 7TH AMENDMENT TO THE UNITED STATES CONSTITUTION.

Respectfully submitted,

Dated: March 8, 2017

By: */s/ Scott Alan Burroughs*
Scott Alan Burroughs, Esq.
Trevor W. Barrett, Esq.
Justin M. Gomes, Esq.
DONIGER / BURROUGHS
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WOODWARD ENTERPRISES, LLC.